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JUDGE STEIN

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

BENCHMARK EXPORT SERVICES, INC.

07 CIV 9446

Plaintiff,

2007 Civ.

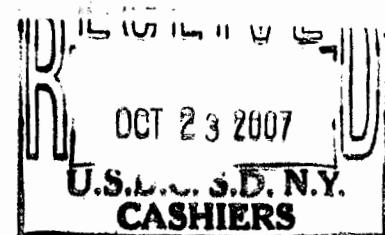
- against -

AMERICAN TRANSPORT LOGISTICS, INC.

COMPLAINT

Defendant.

X



Plaintiff, by its attorneys, CASEY & BARNETT, LLC, as and for its Complaint, alleges upon information and belief as follows:

1. This is an admiralty and maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure. Jurisdiction is predicated upon 28 U.S.C. §1333.

2. Plaintiff, BENCHMARK EXPORT SERVICES, INC., is a corporation with a place of business located at 108A Erickson Avenue, Essington, Pennsylvania, 19029, engaged in the business of providing international freight forwarding services, and was the insured of a consignment of smoothie base mix shipped aboard the M/V Maersk Carolina, as more fully described below

3. Defendant, AMERICAN TRANSPORT LOGISTICS, INC. (hereinafter "ATL"), is a corporation, or other type of business organization, with a place of business located at 1 Woodbridge Center, Suite 430, Woodbridge, New Jersey 07095, was and is doing business in

this jurisdiction directly and/or through an agent, and at all times acting in the capacity of a non vessel owning common carrier (NVOCC).

4. Plaintiff is and was the assured of the consignment hereinbelow described and brings this action on its own behalf and as agent and/or trustee on behalf of and for the interest of all parties who may be or become interested in the said consignment, as their respective interests may ultimately appear, and Plaintiff is entitled to maintain this action.

5. In September, 2006, plaintiff engaged the services of defendant ATL, a non vessel operating common carrier, to provide transportation of a consignment of 1,435 cases of fruit and vegetable smoothie drink mix from New York to Shuwaikh, Kuwait.

6. Due to the perishable nature of the smoothie mix, plaintiff requested that the temperature within the container be maintained at a temperature of 17 degrees Celsius throughout transit.

7. On or about September 19, 2006, defendant sent plaintiff a booking confirmation, confirming that the container would be set at a temperature of 17 degrees Celsius.

8. On or about October 1, 2006, 1,435 cases of smoothie drink mix, laden in container number MWCU6687630, were delivered into the care and custody of the defendant and/or its agents for transportation to Shuwaikh, Kuwait aboard the M/V Maersk Carolina, pursuant to ATL bill of lading number EX4611-01, dated October 1, 2006.

9. Thereafter, the container was loaded aboard the M/V Maersk Carolina and the vessel sailed for its intended destination.

10. When the container arrived at Shuwaikh, Kuwait, it was discovered that the container temperature had been incorrectly set to 17 degrees minus Celsius, instead of 17 degrees Celsius.

11. As a result of the exposure to extreme cold, the consignment of fruit and vegetable mix was rendered unfit for consumption and ordered to be destroyed by the Kuwait Department of Food.

12. The damages to the aforementioned smoothie drink mix did not result from any act or omission on the part of the plaintiff, but to the contrary, was the result in whole or in part, of the negligence and/or fault and/or breach of contract and/or breach of bailment by the defendant.

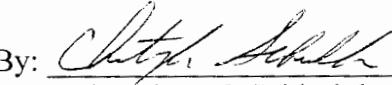
13. By reason of the foregoing, Plaintiff has been damaged in the amount of \$55,000, no part of which has been paid, although duly demanded.

WHEREFORE, Plaintiff prays that:

1. That process in due form of law may issue against Defendants citing them to appear under oath and answer all and singular the matters aforesaid;
2. That judgment may be entered in favor of Plaintiff against Defendants for the amount of Plaintiff's damages, together with interest and costs and the disbursements of this action; and
3. That this court grants to Plaintiff such other and further relief as may be just and proper.

Dated: New York, New York
October 23, 2007
299-72

CASEY & BARNETT, LLC
Attorneys for Plaintiff

By: 
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